

08:32 1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF TEXAS
3 DALLAS DIVISION

4 UNITED STATES OF AMERICA (NUMBER 3: 04-240-G
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8 HOLY LAND FOUNDATION, ET AL. (August 9, 2007

9 VOLUME 11
10 TRANSCRIPT OF THE TRIAL
11 BEFORE THE HONORABLE A. JOE FISH

12 A P P E A R A N C E S:

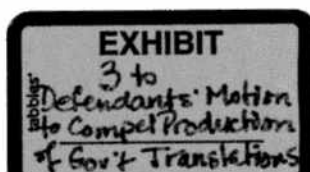
13 For the Government: MR. JIM JACKS
14 MR. BARRY JONAS
08:32 15 MS. ELIZABETH SHAPIRO
MR. NATHAN GARRETT
16 Assistant United States Attorney
UNITED STATES DEPARTMENT OF JUSTICE
17 NORTHERN DISTRICT OF TEXAS
U.S. Courthouse
18 1100 Commerce Street
Dallas, Texas 75242
214/659-8600

19
20 For the Defendant Shukri Baker:

21
22 MS. NANCY HOLLANDER
23 MS. TERESA DUNCAN
FREEDMAN BOYD DANIELS
24 HOLLANDER
20 First Plaza, Suite 700
Albuquerque, NM 87102
25 505/842-9960

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14:12

1

MS. LARA BURNS

2

CROSS EXAMINATION (CONT'D)

3

BY MS. HOLLANDER:

4

Q Good afternoon, Agent Burns. I put your book

5

back up there and I'll let you know when you need it

6

again. I want to start by reminding you that you

7

testified that my client, Shukri Abu Baker, wrote a

8

document or a report which is about a visit to Occupied

9

Palestine from 5-16-91 --

10

MR. JACKS: Judge, I believe that's a

11

misstatement or mischaracterization of the testimony.

12

THE COURT: Overruled.

13

BY MS. HOLLANDER:

14

Q Would you look at 4-6 in your book. This is a

14:13

15

government's exhibit. If you don't have it there, it will

16

be on the screen. Page 7, the first page of the

17

translation, please. And Agent Burns, that document, the

18

one I just mentioned is on your screen just now.

19

A I never said that Shukri Abu Baker wrote that

20

document.

21

Q The name of that document is a report about a

22

visit to Occupied Palestine from 5-17-91 until 6-4-1991?

23

A That part you are right about.

24

Q My mistake. I'm sorry. But you did testify

25

about that report, correct?

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14:15 1 A Yes.

 2 Q And that report is not signed, is it?

 3 A No, it's not.

 4 Q So actually you don't know who wrote that

 5 report?

 6 A That's correct.

 7 Q The report discusses a particular trip that

 8 someone made to Palestine, correct?

 9 A Someone from the Palestinian Committee, yes.

 10 Q And you also discussed about the same time

 11 Government's Exhibit 3-8, correct? That's described as an

 12 Occupied Land Fund report, correct?

 13 A Correct.

 14 Q Now, the first one that we just looked at,

14:16 15 Document 4-6, that one was photographed during the search

 16 of Mr. Abdel Halim Ashqar's house, correct?

 17 A That's correct.

 18 Q And this one, where was this seized?

 19 A This was seized from the home of Ismail El

 20 Barasse.

 21 Q Now, if you look at Section 6 C of that

 22 document, on the next page, you testified I believe what

 23 this referred to was a trip that Shukri Abu Baker was

 24 taking, correct?

 25 A That's correct.

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14:17 1 Q And it said a trip to the inside in this
2 document, direct?

3 A That's correct.

4 Q And you understood that to mean that he was in
5 Palestine, correct?

6 A That's correct.

7 Q But this document is not dated either, is it?

8 A No, we were able to have a general time period
9 based on elements in the letter sometime in 1991.

10 Q And then you refer to the document we just used,
11 4-6, to try to date it?

12 A I don't believe that's the document I used. I
13 believe I used the HLF board minutes from the same time to
14 try to date this document. The other document was dated.

14:18 15 Q The other document was dated?

16 A Right.

17 Q But you assume the other document referred to a
18 trip that Mr. Abu Baker was taking between 5-17 and 6-5,
19 1991?

20 A No, I didn't assume that. Mr. Jacks asked me
21 when Mr. Shukri Abu Baker came back into the country. I
22 said June 3rd. I have no idea if he was in the
23 Palestinian Territories or if -- I know from his customs
24 records he went out of the country in 1991 I think three
25 times in about six months, but those records don't tell me

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14:18 1 where he went. I only know that he was coming back in the
 2 country. So I can't say that he went to the Palestinian
 3 Territories on any one of those trips. I don't know.

 4 Q I want to make sure I understand this. You are
 5 not attributing either of these documents to be talking
 6 about a trip that he made?

 7 A I'm sorry?

 8 Q You are not saying that either of these
 9 documents refer to a trip that Mr. Shukri Abu Baker made?

 10 A No, that's not what I said. The Occupied Land
 11 Fund report says that Shukri Abu Baker took a trip to the
 12 Occupied Land Territories sometime in 1991. The other
 13 report which was the report about HAMAS, dawa and military
 14 and weapons and fugitives which was unsigned, we know who
14:19 15 that was. I can't say who wrote it because it's not
 16 signed, and I doubt the person who wrote it is going to
 17 admit it.

 18 Q And you don't know who wrote the document we
 19 looked at, do you?

 20 A No, but the author of documents is irrelevant.
 21 It's the content that is important.

 22 Q It's the content that is important to you?

 23 A That's correct.

 24 Q In fact, I would like you to look at
 25 Government's Exhibit 11-57. Now, if you look at Page 23

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14:20 1 of that document, this is a document that you used to
2 determine when Mr. Abu Baker came into the country,
3 correct?
4 A Yes.
5 Q And this is an official government report, isn't
6 it?
7 A Correct.
8 Q And it tells us just, to remind everyone, when
9 people come into the country from overseas?
10 A Right. As opposed to when they go out.
11 Q And it doesn't track just domestic travel?
12 A Domestic travel is not included. It's just
13 overseas.
14 Q So if you look on this document -- we're looking
14:21 15 at 1991. It shows Mr. Abu Baker returning on 6-3-91,
16 correct?
17 A Correct.
18 Q And coming through Charlotte, North Carolina?
19 A That's correct.
20 Q And the document we looked at a few minutes ago
21 that was photographed at Mr. Ashqar's house talked about a
22 visit to Palestine that someone took between 5-17 and 6-4,
23 1991, correct?
24 A That's correct.
25 Q So that would be a day longer than this document

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14:21 1 shows, correct?

2 A Right.

3 Q That would mean that somebody stayed there a day
4 longer than this?

5 A I don't know what the writer meant by June 4th.
6 I don't know if he meant he arrived home or in the United
7 States. I don't know what the author meant by June 4th.

8 Q Now, you also testified that the grand jury
9 issued subpoenas to American Express for documents,
10 correct?

11 A That's correct.

12 Q And that was at the request of the government,
13 correct?

14 A Correct.

14:22 15 Q And those documents were turned over to the FBI?

16 A That's correct.

17 Q So you have looked through them?

18 A Yes.

19 Q And you know that Mr. Abu Baker was actually in
20 London in May of 1991, don't you?

21 A I know that he at least stopped through there.
22 There was a receipt I think from May 26 when he stopped,
23 and there was a credit card receipt.

24 Q You didn't show that to the jury when you were
25 testifying on direct, did you?

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14:22 1 A No.

 2 Q Well, let's look at that receipt. That's a

 3 receipt from a London Ramada, correct?

 4 A That's correct.

 5 Q And the date is 26-5-91?

 6 A That's correct.

 7 Q And because it's Europe, they flip the date. So

 8 it's 5-26-91?

 9 A Yes.

 10 Q And that's the document that you are referring

 11 to that shows that Mr. Abu Baker was in London on that

 12 day, correct?

 13 A On that day.

 14 Q You also know when he came back through

14:24 15 Charlotte, he actually came from London, don't you?

 16 A That's correct.

 17 Q And you didn't mention that during your direct

 18 testimony, did you?

 19 A I didn't think it was relevant.

 20 Q You didn't mention it during your direct

 21 testimony, did you?

 22 A I don't recall if I did or not.

 23 Q So this is the document you are referring to

 24 that shows he came back through London, correct?

 25 A No, actually this is a different document. I

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14:25 1 believe somewhere in those customs records it indicated
 2 that he had come from London. This is a document that
 3 shows the purchase of a ticket, shows the transaction
 4 date, but I don't know to what this ticket corresponds. I
 5 have no way of knowing if this was a ticket he used or
 6 didn't use. All I know is this is a round trip ticket
 7 through Charlotte to London and the purchase date which is
 8 May 21st, 1991.

 9 Q But it's consistent with his coming back through
 10 Charlotte on June 3rd, isn't it?

 11 A That's correct.

 12 Q Now, you also know that Mr. Abu Baker went to
 13 Jerusalem shortly thereafter, don't you?

 14 A Yes.

14:26 15 Q Government's Exhibit 11-57. And if you look on
 16 this document it also shows that Mr. Abu Baker came back
 17 to the United States on August 5th, 1991 through New York,
 18 correct?

 19 A That's correct.

 20 Q And you also subpoenaed documents from -- or
 21 there are grand jury subpoena documents for Mr. Abu
 22 Baker's personal accounts?

 23 A Yes.

 24 Q And one of those showed that he was at the Seven
 25 Arches Hotel in Jerusalem on the 3rd of August of that

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14:27 1 year, correct?

2 A I learned that today. I hadn't actually seen
3 that particular document until we received it from you at
4 lunch time.

5 THE COURT: Is this document in evidence?

6 MS. HOLLANDER: I'm sorry. Defendant's Exhibit
7 1017.

8 THE COURT: Yes, it is in evidence. It was
9 moved in evidence yesterday.

10 MS. HOLLANDER: I should have identified it by
11 number. I'm sorry. Defendant's Exhibit 1017.

12 BY MS. HOLLANDER:

13 Q And the highlighted portion shows the Seven
14 Arches Hotel in Jerusalem, correct?

14:28 15 A That's correct.

16 Q When did you see this document?

17 A At lunch.

18 Q And who showed it to you?

19 A It was on the disk of exhibits you provided to
20 the government today.

21 Q And who with the government showed it to you?

22 A It was one of our clerks.

23 Q Were the prosecutors there?

24 A No, they were in here.

25 Q Did they show you all the documents that we

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14:29 1 provided today?

2 A We had most of your defense exhibits through the
3 900 series, but for some reason you hadn't turned over all
4 the later ones. So we just got the disk today. So yes,
5 we looked at your exhibits like you look at ours.

6 Q Who gave you the disk?

7 A A law clerk. I don't know if she was a law
8 clerk. She was an assistant.

9 Q Why did she give it to you?

10 A I asked her for it.

11 Q And how did you know that we had provided this?

12 A Because the defense provides the prosecution
13 exhibits just like the prosecution provides the defense
14 exhibits.

14:30 15 Q How did you know we had provided this disk
16 today?

17 A I have been requesting it for quite some time.

18 Q Requesting what?

19 A Your defense exhibits. We have to check your
20 translation against ours just like you check ours against
21 yours.

22 Q And are you the translator?

23 A No.

24 Q So you don't have to check the translations?

25 A I have to have the translator check the

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14:30 1 documents.

2 Q Are there any mistranslations on this document?

3 A Not on this one.

4 MS. HOLLANDER: Your Honor, at the appropriate
5 time, I will need to make a motion. I will go on.

6 BY MS. HOLLANDER:

7 Q I'd like at this time, your Honor, to move into
8 evidence a document that I discussed yesterday and the
9 government reserved on. It's Defendant's Exhibit 1019.
10 It's a report seized from -- seized by the government from
11 the storage area that the Holy Land rented from Infocom,
12 seized by the government and produced by the defense in
13 discovery.

14 MS. HOLLANDER: I have -- I did show this to Mr.
14:31 15 Jonas, and he had his translator prepare it. I'd like to
16 move this in evidence at this time.

17 MR. JACKS: Judge, this is one of the exhibits
18 which the government contended was covered by its motion
19 in limine, and that was the basis of our objection as to
20 401 grounds.

21 THE COURT: Is that the most recent motion in
22 limine that you are referring to?

23 MR. JACKS: Yes, your Honor.

24 THE COURT: I will overrule the objection
25 stated and admit into evidence Defendant's Exhibit 1019.

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14:32 1 MS. HOLLANDER: And I have to use the Elmo for
2 this because the only corrected versions are the ones that
3 I have, the correct translation.

4 THE COURT: All right.

5 BY MS. HOLLANDER:

6 Q Can you see from your screen?

7 A It's blank.

8 Q But when you have something on there, can you
9 see it?

10 A Yes.

11 Q Now, I'm showing you what we just moved into
12 evidence as 1019. You are familiar with this document,
13 aren't you?

14 A That's correct.

14:33 15 Q And you have seen this before today, haven't
16 you?

17 A Yes.

18 Q And you have had it translated before, haven't
19 you?

20 A I don't know when this was translated.

21 Q You don't know when it was translated?

22 A No.

23 Q But you knew that it existed, didn't you?

24 A I believe so. I have seen it before.

25 Q But you didn't mention this when you were

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14:33 1 discussing this trip to Palestine during your direct
 2 examination.

 3 MR. JACKS: Judge, I would object to the form of
 4 question. By saying she didn't mention it, it would
 5 depend upon if she was asked about it.

 6 THE COURT: I agree. Sustained.

 7 MS. HOLLANDER: I'll re-ask the question. You
 8 weren't asked about this document, were you?

 9 A No, I wasn't.

 10 BY MS. HOLLANDER:

 11 Q I'd like to ask you to read the title of the
 12 document and the date.

 13 A It says "Report Concerning Visit to the Occupied
 14 Land from July 16 until August 3rd, 1991."

14:34 15 Q Now, go down and read down through Number 4.

 16 A "Thank be to God and peace be upon his
 17 messenger. The purpose of the visit: The executive
 18 director decided to visit the Occupied Land to accomplish
 19 the following goals: To get to know the organizations and
 20 the charitable associations operating on the ground.

 21 "Number 2, Follow-up on the projects and fund
 22 business at the inside associations.

 23 "3, To remove the administrative and technical
 24 obstacles appearing in front of the bilateral relations
 25 between the Fund and the inside associations.

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14:35 1 "Number 4, The possibility study of opening an
2 office for the Fund in Jerusalem."

3 Q Now, the date of this correspondence, in other
4 words August 3rd, corresponds with the date that Mr. Abu
5 Baker returned, according to the government document,
6 through New York?

7 A I would need to see it again. I don't recall
8 the exact date. But it's around there. If you want to
9 show it to me again.

10 Q That's 11-57. That shows that he arrived back
11 in the United States on the 5th of August, correct?

12 A Correct.

13 Q So that would be consistent with being gone
14 until the 3rd, wouldn't it? That would be consistent?

14:36 15 A It's consistent.

16 Q And it's also consistent with having a bill at
17 the Seven Arches Hotel on August 3rd, correct?

18 A Yes.

19 Q That's in Jerusalem, correct?

20 A Yes.

21 Q So that's more evidence that he went to
22 Jerusalem on that date, correct?

23 A Yes, it looks like he was in Jerusalem.

24 Q And he was the Executive Director of the
25 Occupied Land Fund. This was right around the name was

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14:36 1 changing, wasn't it?

2 A Yes.

3 Q So let's just call it the Holy Land Foundation.

4 Mr. Abu Baker was the Executive Director at that time,

5 wasn't he?

6 A Yes, he was.

7 Q Would you read the rest of the page please

8 starting with "the accomplishment."

9 A "The accomplishment related to the first and
10 second goals: Jerusalem area. I met with Sheikh Mohammed
11 Jum'ah, the representative for Jerusalem Zakat Committee
12 and learned about their activities. I didn't visit their
13 center due to a recommendation about suspicious
14 allegations going on regarding the Sheikh.

14:37 15 "I also met with Brother Shawki, who was in
16 charge of finance and with Sheikh Abd Al Azim Salhab, the
17 representative for the Jerusalem Zakat Committee.

18 I also met with Mr. Baha Al Din Ahanablah, the
19 office director for the Jordanian Charitable Associations.
20 I accompanied him with some trips. We discussed the
21 possibility of mutual cooperation in supporting projects
22 inside and exchange of technical expertise and field
23 information. I requested from him to prepare an idea
24 about an opportunity of mutual work and the five-year
25 association plan."

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14:38 1 Q Read this page, please.

2 A "I visited the Center of the Islamic Culture and
3 Scientific Committee association in Bier Nabalab area. In
4 a meeting, I discussed all the pending problems between
5 the two parties. Then I visited the site of Al Iman
6 School for girls where the Fund was the original supporter
7 in building it. I discussed the orphan and the needy
8 family issue and other things such as the mutual working
9 opportunities.

10 "An agreement was made in which the association
11 will provide the Fund with the entire media coverage
12 related to mutual activities, participate in providing the
13 Fund with the essential field studies concerning the
14 charitable work association in Palestine and the
14:39 15 establishment and care programs for the orphans and
16 others.

17 "I also visited the Arab Orphan Association
18 which is managed by the engineer Abu Sulayman, and I
19 learned about their pioneer functions in the field of
20 preparing the orphans.

21 "I also met with Mr. Ahmad Bayyud Al Tamimi, the
22 Director of the Islamic Industrial Orphans House in
23 Jerusalem.

24 "I also met with Sheikh Ibrahim Abu Salim,
25 chairman of the Bir Nabalab Charitable Committee and

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14:39 1 listened to their aspirations and projects."

2 Q The next paragraph?

3 A "Bethlehem: During my visit to Bethlehem, it
4 was feasible for me to meet the brothers in charge of
5 Bethlehem Charitable Committee I viewed Al-Akha school
6 project which was supported by the Fund and viewed their
7 recent developments.

8 "I also visited work areas in Al Ta'amirah
9 district where Umar Bin al Kattab Mosque is being expanded
10 and managed by a group from Al Tayib guys.

11 "I met two representatives from Bayt Najjar
12 Charitable Committee lead by Dr. Isa and learned about
13 their activities and projects.

14 "I met a delegate from Bayt Sahur Charitable
14:40 15 Committee and learned about their activities and projects.

16 "I visited and reviewed Al Duhayshiyah Camp and
17 met with several people and visited its mosque. During
18 the visit I met with the Camp Charitable Committee which
19 was established and preached philanthropy where it takes
20 care of the mosque and nursery and distributes aids to
21 needy families. And agreement took place with Mr. Umar
22 Muhammad Al Afandi and the remaining committee members on
23 ways to cooperate with the Fund."

24 Q When that refers to a camp -- And I won't ask
25 you to try to say that again.

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